

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CORNERSTONE STAFFING
SOLUTIONS, INC., a California
corporation,

No. C 12-01527 RS

**ORDER CONTINUING MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Plaintiff

v.

LARRY THAXTER JAMES, an individual;
et al.,

Defendants.

AND RELATED CROSS-ACTIONS.

Plaintiff Cornerstone Staffing Solutions, Inc. and Mary Anderson (collectively, “Cornerstone”) moved for partial summary judgment on June 6, 2013. Larry James then filed a document captioned “ex parte application to continue the opposition and hearing for Cornerstone’s motion for summary judgment.” For the following reasons James’s request to continue the summary judgment briefing schedule and hearing, construed as an opposition to the partial summary judgment motion under Federal Rule of Civil Procedure 56(d), is granted.

James seeks a sixty-day continuance of Cornerstone’s partial summary judgment motion to depose Anderson, arguing the motion is premature and that a continuance will allow him to conduct discovery necessary to demonstrate triable issues of fact exist to defeat the motion. Cornerstone

1 opposes the continuance on the grounds that the filing is procedurally improper as an ex parte
2 motion and fails to make the requisite showing under Rule 56(d).

3 Although captioned as an ex parte motion, James's request is not such a motion within the
4 meaning of Local Rule 7-10, as Cornerstone has notice of it. The local or federal rules pertaining to
5 ex parte motions, therefore, do not apply. Nor is the motion brought as a properly noticed motion
6 pursuant to Local Rule 7-2.

21 The request is granted. The hearing on the motion for summary judgment is continued until
22 Thursday, September 19, 2013, at 1:30 p.m. James's opposition is due on September 5, 2013, at
23 which time non-expert discovery will have closed. Cornerstone's reply, if any, must be filed by
24 September 12, 2013.

25 IT IS SO ORDERED.

26 || Dated: 6/20/13


RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE